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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,773	09/04/2001	Ulrich Upmeyer	UPMEYER=4	4160

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,773

Applicant(s)

UPMEYER, ULRICH

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example:

- a. In claim 1, lines 1 and 2, the limitation "particularly in the printing industry" fails to positively claim the printing industry.
- b. In claim 1, line 3, it is unclear as to what applicant is considering as the longitudinal direction of the aisle, as the reels appear to be stored in the transverse direction with respect to the aisle.
- c. In claim 1, line 8, the limitation "coupled to the fork movement-wise" is not fully understood. What type of coupling arrangement is this attempting to claim, direct or indirect?
- d. In the penultimate line of claim 1, the phrase "the horizontal position" lacks antecedent basis within the claims.
- e. In claim 3, it is unclear as to how the applicant is using the phrase "prism shaped".
- f. Line 4 of claim 4 recites and introduces a horizontal pivot into the claimed combination of elements which appears to be the same horizontal pivot as recited in claim 1.
- g. In claim 6, the phrases "the fork frame", "the rotating ring" and "the drive frame" lack antecedent basis within the claims. It also recites that the fork frame has having a pivot axis which is a redundant recitation of the pivot axis recited in claim 1.
- h. In claim 7, the phrases "the fork frame", "the fork framework" and "the height region of the fork" lack antecedent basis within the claims.
- i. In claim 8, the phrases "the drive frame", "the lifting gear frame" and "the stand" lack antecedent basis within the claims.
- j. In claim 9, the phrases "the stand", "its vertical posts", "the lift and drive units", "the rearranged", "the lifting gear frame" and "its rollers" lack antecedent basis within the claims.
- k. In claim 10, the phrases "the stand" and "the operating aisle" lack antecedent basis within the claims.
- l. In claim 11, the phrases "the two posts", "the shelf stacking machine stand", "the transport vehicle" and "the vertical position" lack antecedent basis within the claims.
- m. In claim 12, the term "portal-like" renders the claim indefinite as it is unclear as to what elements would or would not be considered as like a portal. Also, the phrases "the transport vehicle", "its drive rail" and "the warehouse floor or pit" lack antecedent basis within the claims.
- n. In claim 13, the phrases "the lifting elements", "the transport vehicle" and "the vertical position" lack antecedent basis within the claims.
- o. In claim 14, the phrases "the posts", "the stand" and "the warehouse floor" lack antecedent basis within the claims.
- p. In claim 15, the phrase "preferably a telescoping mandrel" fails to positively recite the telescopic aspect of the mandrel.
- q. It is unclear as to how claim 16 can recite multiple stacking machines and depend from a claim which provides a basis for only one stacking machine. Also, the phrase "the operating aisle" lacks antecedent basis within the claims.

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3. As the structures recited in claims 8, 9, and 11-15 are not understood, these claims have not been further treated on the merits with rejections based upon prior art.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 10, and 16, as best understood, are rejected under 35 U.S.C. § 102(e) as being anticipated by Lanza et al. Lanza et al shows a fork lift with ultrasound sensors for load orientation and collision avoidance. The intended use of the fork lift, for lifting paper reels from rows of shelves, is not given any patentable weight, as the fork lift of Lanza et al has all of the structural limitations recited in the claims and could be used as such.

7. Claims 1, 4-7 and 10, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Nakajima. Nakajima shows a paper reel handling machine which is inherently movable in aisles, note the claims only function recite this limitation, which includes a pivoting fork (26/22) with measuring devices (at 27) for controlling an actuator (14). Bearing (3) is a rotating ring, as broadly recited in claims 5 and 6. The transport vehicle of Nakajima can be moved out of the aisles, as broadly recited in claim 10.

8. Claims 1 and 4-7, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Yasuhara et al. Yasuhara et al shows a paper reel handling machine with a pivoting fork (6) with measuring devices (111 and 112) for determining compensation data for lifting.

9. Claim 3, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakajima in view of Focke et al. Nakajima shows the basic claimed reel lifting machine, as discussed above, but does not have circular arc shaped sections in the fork (22) for lifting reels of differing dimensions. Focke et al shows a

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similar fork with sections for lifting reels of differing dimensions, see figures 3 and 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the fork (22) of Nakajima by providing it with sections shaped for lifting differently sized reels, as taught by Focke et al.

10. Kamide et al, Olson, Holand et al and Naruse et al are cited as showing automatic controls for forklift leveling. Kataoka, Dehne and Ohashi et al show similar controls for paper reel lifts.

11. Any inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 380-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.



Thomas J. Brahan
Primary Examiner
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